

**ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

May 14, 2021
8:06 a.m.

DRAFT

MEMBERS PRESENT

Representative Zack Fields, Co-Chair
Representative Ivy Spohnholz, Co-Chair
Representative Calvin Schrage
Representative Liz Snyder
Representative James Kaufman
Representative Ken McCarty

MEMBERS ABSENT

Representative David Nelson

COMMITTEE CALENDAR

HOUSE BILL NO. 204

"An Act relating to the presumption of compensability for a disability resulting from certain cancers in firefighters."

- HEARD & HELD

PRESENTATION(S): STATE & LOCAL WORKERS' RIGHTS ENFORCEMENT

- HEARD

HOUSE BILL NO. 91

"An Act exempting veterinarians from the requirements of the controlled substance prescription database."

- HEARD & HELD

SENATE BILL NO. 12

"An Act relating to temporary courtesy licenses for military spouses; and relating to the Department of Commerce, Community, and Economic Development."

- MOVED SB 12 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 204

SHORT TITLE: WORKERS' COMP DISABILITY FOR FIREFIGHTERS

SPONSOR(s): REPRESENTATIVE(s) KAUFMAN

05/05/21	(H)	READ THE FIRST TIME - REFERRALS
05/05/21	(H)	L&C
05/14/21	(H)	L&C AT 8:00 AM GRUENBERG 120

BILL: HB 91

SHORT TITLE: CONTROLLED SUB. DATA: EXEMPT VETERINARIAN

SPONSOR(s): REPRESENTATIVE(s) WOOL

02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	L&C, RES
05/14/21	(H)	L&C AT 8:00 AM GRUENBERG 120

BILL: SB 12

SHORT TITLE: MILITARY SPOUSE COURTESY LICENSE

SPONSOR(s): SENATOR(s) KAWASAKI

01/22/21	(S)	PREFILE RELEASED 1/8/21
01/22/21	(S)	READ THE FIRST TIME - REFERRALS
01/22/21	(S)	STA, L&C
03/04/21	(S)	STA AT 3:30 PM BUTROVICH 205
03/04/21	(S)	Heard & Held
03/04/21	(S)	MINUTE(STA)
03/11/21	(S)	STA AT 3:30 PM BUTROVICH 205
03/11/21	(S)	Heard & Held
03/11/21	(S)	MINUTE(STA)
04/22/21	(S)	STA AT 3:30 PM BUTROVICH 205
04/22/21	(S)	Moved SB 12 Out of Committee
04/22/21	(S)	MINUTE(STA)
04/23/21	(S)	STA RPT 3DP 1NR
04/23/21	(S)	DP: SHOWER, KAWASAKI, COSTELLO
04/23/21	(S)	NR: HOLLAND
04/26/21	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
04/26/21	(S)	Moved SB 12 Out of Committee
04/26/21	(S)	MINUTE(L&C)
04/28/21	(S)	L&C RPT 3DP
04/28/21	(S)	DP: COSTELLO, REVAK, GRAY-JACKSON
05/03/21	(S)	TRANSMITTED TO (H)
05/03/21	(S)	VERSION: SB 12
05/04/21	(H)	READ THE FIRST TIME - REFERRALS
05/04/21	(H)	STA, L&C
05/06/21	(H)	MLV REPLACES STA REFERRAL
05/11/21	(H)	MLV AT 1:00 PM GRUENBERG 120
05/11/21	(H)	-- MEETING CANCELED --

05/12/21	(H)	L&C AT 3:15 PM BARNES 124
05/12/21	(H)	<Bill Hearing Canceled>
05/13/21	(H)	MLV AT 1:00 PM GRUENBERG 120
05/13/21	(H)	Moved SB 12 Out of Committee
05/13/21	(H)	MINUTE (MLV)
05/14/21	(H)	L&C AT 8:00 AM GRUENBERG 120

WITNESS REGISTER

MATTHEW HARVEY, Staff
Representative James Kaufman
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented a PowerPoint on HB 204 on behalf of Representative Kaufman, prime sponsor.

TIM BENNINGFIELD, Fire Chief
Chugiak Volunteer Fire and Rescue
Chugiak, Alaska

POSITION STATEMENT: Provided information during the hearing on HB 204.

LORI WING-HEIER, Director
Division of Insurance
Department of Commerce, Community, and Economic Development
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 204.

CHARLES COLLINS, Director
Division of Workers' Compensation
Department of Labor and Workforce Development
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 204.

TERRI GERSTEIN, Director
State and Local Enforcement Project
Harvard Law School Labor and Worklife Program
Cambridge, Massachusetts

POSITION STATEMENT: Presented a PowerPoint on State & Local Workers' Rights Enforcement.

REPRESENTATIVE ADAM WOOL
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, introduced HB 91.

ASHLEY CARRICK, Staff
Representative Adam Wool
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented a PowerPoint on HB 91 on behalf of Representative Wool, prime sponsor.

RACHEL BERNGARTT, DVM, Chair
Board of Veterinary Examiners
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community, and Economic Development
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 91.

MARY ANN HOLLICK, DVM
Alaska Veterinary Medical Association
Chugiak, Alaska

POSITION STATEMENT: Testified in support of HB 91.

MCKAYLA DICK, DVM, President
Alaska Veterinary Medical Association
North Pole, Alaska

POSITION STATEMENT: Testified in support of HB 91.

PAM VENTGEN, Executive Director
Alaska State Medical Association
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 91.

JOE HAYES, Staff
Senator Scott Kawasaki
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 12 on behalf of Senator Kawasaki, prime sponsor.

TAMMIE PERREAULT, Northwest Regional Liaison
Defense-State Liaison Office
U.S. Department of Defense
Olympia, Washington

POSITION STATEMENT: Testified in support of SB 12.

SARA CHAMBERS, Director
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community, and Economic Development
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 12.

ACTION NARRATIVE

[8:06:29 AM](#)

CO-CHAIR ZACK FIELDS called the House Labor and Commerce Standing Committee meeting to order at 8:06 a.m. Representatives Schrage, Fields, Kaufman, McCarty, and Snyder were present at the call to order. Representatives Spohnholz arrived as the meeting was in progress.

^#hb204

HB 204-WORKERS' COMP DISABILITY FOR FIREFIGHTERS

[8:07:03 AM](#)

CO-CHAIR FIELDS announced that the first order of business would be HOUSE BILL NO. 204, "An Act relating to the presumption of compensability for a disability resulting from certain cancers in firefighters."

[8:07:28 AM](#)

REPRESENTATIVE KAUFMAN, as prime sponsor, explained that HB 204 would add breast cancer to the list of presumed disability coverages for firefighters, so long as the firefighter could establish medically that the breast cancer was caused by work as a firefighter.

[8:08:29 AM](#)

MATTHEW HARVEY, Staff, Representative James Kaufman, Alaska State Legislature, presented a PowerPoint [hard copy included in the committee packet] titled "House Bill 204; Workers' Compensation Disability for Firefighters," on behalf of Representative Kaufman, prime sponsor. He presented slide 2, "HB 204: Introduction," which read as follows [original punctuation provided]:

Firefighting is an inherently
dangerous job.

It is important that workers
compensation insurance provides
coverage for the inherent risks in

that job.

Currently, there is an oversight in Alaska Statutes regarding that coverage: Breast Cancer.

MR. HARVEY presented slide 3, "Breast Cancer Risk - Firefighters," which read as follows [original punctuation provided]:

Key Facts:

□ Male firefighters are 7.5 times more likely to die from breast cancer than their counterparts not in fire service (Ma et al, 2005)

□ Studies that have evaluated cancer risk among women firefighters suggest they may be at an elevated incidence of risk for breast cancer (Daniels et al, 2014).

□ Women in the U.S. have a 1 in 8 (12 %) lifetime risk of contracting breast cancer.

MR. HARVEY presented slide 4, "House Bill 204," which read as follows [original punctuation provided]:

HB 204 would add breast cancer to the list of presumed disability coverages for firefighters, so long as the firefighter could establish that the firefighter was exposed to a known carcinogen associated with breast cancer

MR. HARVEY presented slide 5, "Alaska Statute 23.30.121," which read as follows [original punctuation provided]:

Breast Cancer would join the existing list of diseases alongside:

1. Respiratory Disease
2. Cardiovascular Events (Limited)
3. Primary Brain Cancer
4. Malignant Melanoma
5. Non-Hodgkin's Lymphoma
6. Bladder Cancer
7. Ureter Cancer
8. Kidney Cancer

9. Prostate Cancer

MR. HARVEY presented slide 6, "Alaska Statute 23.30.121," which read as follows [original punctuation provided]:

Several standard limitations apply for presumption of compensability. The firefighter must:

1. Have been a firefighter for at least seven years,
2. Have had initial and annual medical exams showing no evidence of disease,
3. Be able to demonstrate exposure to a known carcinogen while in the Fire Service,
4. At a minimum, be certified as a Firefighter I.

[8:10:51 AM](#)

CO-CHAIR FIELDS asked how a firefighter would demonstrate exposure to a known carcinogen.

MR. HARVEY discussed keeping a record of exposures.

[8:11:27 AM](#)

MR. HARVEY resumed his PowerPoint with slide 7, "Alaska Statute 23.30.121," which read as follows [original punctuation provided]:

Other qualifying criteria would apply, including:

1. Coverage may be denied based on:
 - a. Use of tobacco products,
 - b. Physical fitness and weight,
 - c. Lifestyle decisions,
 - d. Hereditary factors, and
 - e. Exposure from other employment/non-employment activities.
2. Post-employment coverage is available:
 - a. Three months accrued for every year of service
 - b. Five-year maximum.

MR. HARVEY presented slide 8, "Senate Bill 131," which read as follows [original punctuation provided]:

Fourteen states include breast cancer in presumptive laws:

1. Arizona
2. Arkansas
3. Colorado
4. Idaho
5. Iowa
6. Maine
7. Maryland
8. Missouri
9. Montana
10. New Mexico
11. New York
12. Oregon
13. Virginia
14. Wisconsin
15. (Alaska?)

[8:12:23 AM](#)

TIM BENNINGFIELD, Fire Chief, Chugiak Volunteer Fire and Rescue, provided information on HB 204 on behalf of the Alaska Firefighters Association. He pointed out that the PowerPoint presentation stated that 4 percent of firefighters in the U.S. are female; in Chugiak, however, women comprise 34 percent of all firefighters. He said there are multiple ways for firefighters to use technology to document exposure to carcinogens.

[8:15:14 AM](#)

CO-CHAIR FIELDS asked for some more detail about the tracker.

MR. BENNINGFIELD explained that when there is a fire, the firefighters are documented as having entered a structure. Later, he said, the firefighter can log the exposure on an app.

[8:17:20 AM](#)

REPRESENTATIVE MCCARTY asked whether the tracking record is sent to a collective site within the state or a certain division.

MR. BENNINGFIELD replied, "That would be attached to each individual firefighter."

REPRESENTATIVE MCCARTY asked whether the information goes to a database for analysis.

MR. BENNINGFIELD responded that the vendors that created the apps currently archive the information, as well as control who has access to the data.

REPRESENTATIVE MCCARTY asked whether there are multiple apps used, and where the information goes.

MR. BENNINGFIELD replied that there are multiple apps, so there is not a single repository of the information.

[8:19:26 AM](#)

CO-CHAIR FIELDS asked whether there is a central state repository, and how to make sure firefighters are protected in the event that one of the apps stops functioning.

[8:20:10 AM](#)

LORI WING-HEIER, Director, Division of Insurance, Department of Commerce, Community, and Economic Development, responded that if the firefighters are all using individual apps, and there's not a central repository for the information, she wouldn't be able to answer the question. If firefighters use the app of their choice and the data is somehow lost, she said, there would be no way of accessing the records.

[8:21:03 AM](#)

CHARLES COLLINS, Director, Division of Workers' Compensation, Department of Labor and Workforce Development, said that there's no tracking of which he is aware. He said that it's the responsibility of each individual firefighter to track exposures.

CO-CHAIR FIELDS commented that it seems like a structural weakness. He asked Ms. Wing-Heier whether he's "wrong" to be worried.

[8:21:30 AM](#)

MS. WING-HEIER replied, "It would seem to me that, perhaps, the fire departments are keeping a track of what they were exposed to, for all their members, that perhaps the individual could

then rely on." She expressed that the lack of tracking appears to be a weakness within the system.

CO-CHAIR FIELDS suggested checking with the municipal fire department in Anchorage.

8:22:15 AM

CO-CHAIR SPOHNHOLZ commented that if the responsibility for tracking exposure lies with the firefighter, the current system is problematic.

8:23:04 AM

REPRESENTATIVE SNYDER asked how workers' compensation claims for cancers have been handled in the past.

MR. COLLINS replied that there have been five cancer-related workers' compensation claims since 2016. He said that the Division of Workers' Compensation doesn't track medical records.

REPRESENTATIVE SNYDER asked what the outcomes were in the claims.

MR. COLLINS responded that four claims were paid, and one person was deceased. He said the Division of Workers' Compensation tracks the costs for benefits, and outcomes are sometimes not shared.

8:25:49 AM

CO-CHAIR FIELDS asked whether hereditary factors have been used as an excuse to not cover someone.

MR. COLLINS replied, "Yes ... that's a very common argument for the employer's attorney or carrier's attorney." He said hereditary factors and tobacco use are both used as arguments against coverage.

CO-CHAIR FIELDS discussed the possibility of considering narrowing the consideration of hereditary factors. He then asked Ms. Wing-Heier whether the Division of Insurance has experienced issues.

8:27:02 AM

MS. WING-HEIER said that the Division of Insurance has the responsibility of overseeing policies and rates, while the Division of Workers' Compensation works with individual claims and how the system works for an injured employee.

[8:27:25 AM](#)

CO-CHAIR FIELDS asked Mr. Collins study whether hereditary factors have been used to deny workers' compensation.

[HB 204 was held over.]

#

PRESENTATION(S): State & Local Workers' Rights Enforcement

[8:27:56 AM](#)

CO-CHAIR FIELDS announced that the next order of business would be a presentation on State & Local Workers' Rights Enforcement.

[8:28:34 AM](#)

TERRI GERSTEIN, Director, State and Local Enforcement Project, Harvard Law School Labor and Worklife Program, shared that she is a Senior Fellow at the Economic Policy Institute and previously worked for 17 years enforcing workforce laws in the New York State Attorney General's office. She introduced her PowerPoint presentation [hard copy included in the committee packet], "State and Local Workers' Rights Innovations: New Players, New Laws, New Methods of Enforcement," and presented slide 2, "Roadmap," which began as follows [original punctuation provided]:

- The landscape for workers
- States & localities
 - New Players
 - New Laws
 - New Methods of Enforcement
- Why do we still need state & local action

MS. GERSTEIN presented slide 3, "The landscape for workers," which read as follows [original punctuation provided]:

- Wage stagnation
- Declining union density

- Widespread retaliation for organizing unions
- Under-resourced enforcement agencies
- Forced arbitration (no access to judge and jury)
- Growing chasm between corporate & worker power

MS. GERSTEIN pointed out that nationwide union membership is currently approximately 6 percent, which is the same as it was in 1993 at the inception of the New Deal. She said that there is widespread retaliation against workers who try to organize unions; enforcement agencies at every level of government are under-resourced, and many state agencies don't have any wage and hour investigators. She said that workers are increasingly required to enter into arbitration, with the arbitrator on the employer's payroll, and the record of such proceedings is not made public. A study by New York University found that hundreds of thousands of claims every year are not heard, due to forced arbitration, extinguishing approximately 98 percent of claims. The concentration of corporate power, she said, negatively affects workers.

[8:34:14 AM](#)

MS. GERSTEIN presented slide 4, "The landscape for workers," which continued the subject from slide 3 and which read as follows [original punctuation provided]:

- Fissuring of the workplace (subcontracting, franchising, misclassification of workers, etc. to avoid employer status)
- Past four years: rollbacks of workers' rights, less aggressive enforcement by federal administration
- Now: worldwide pandemic w/ workplace transmission
- All disproportionately impact immigrant workers, Black workers, other workers of color, women.

MS. GERSTEIN presented slide 5, "States and localities," and she said that new key individuals, new laws, and new methods of enforcement have developed within the past several years. She presented slide 6, "New Players," which listed state attorneys general (AGs), district attorneys (DAs), and municipalities. She said that state AGs have not historically been involved in enforcing workers' rights, and as recently as 2015, only New York, Massachusetts, and California had AGs who addressed workers' rights issues. Since then, she said, state AGs have become more involved in workers' rights, and 10 states have established dedicated labor or worker protection units. District attorneys have also not been historically involved in

workers' rights, she said. If a worker stole from an employer, a DA would pursue criminal charges against the worker; if an employer commits wage theft, however, the act would be treated civilly instead of criminally. So far, she said, only egregious instances of worker mistreatment have been addressed, such as worker trafficking, payroll fraud, cheating on unemployment taxes, or significant safety and health violations. She noted that such cases are often revenue-generating. Municipalities have gotten involved in workers' rights by passing laws, setting up city labor standards offices, and establishing outreach. In Philadelphia, she said, there was a ballot initiative to amend the city charter and create a city labor department, which was approved with approximately 80 percent of the vote.

[8:39:57 AM](#)

MS. GERSTEIN presented slide 7, "New laws," which read as follows [original punctuation provided]:

- Higher minimum wage or broader overtime coverage
- Paid sick and family leave
- Collective bargaining (excluded workers: public employees, farmworkers)
- "Gig economy" worker protections
- Fair scheduling
- Non-compete reform
- Just-cause termination
- Anti-retaliation laws
- Covid-specific protections

MS. GERSTEIN said that in 2020, 24 states and 48 localities had minimum wage increases, and a couple of states passed laws requiring broader coverage for overtime for the "white collar exemption." Some states strengthened the criminal statutes for wage theft, raising them from misdemeanor offenses to felony offenses for wage theft of over a certain amount. Paid sick and family leave laws are now established in 13 states and 21 localities. Collective bargaining is an area that is generally under the purview of the federal government, she said, but some states have established laws creating collective bargaining rights for workers excluded under federal law, such as public employees and farm workers. She noted the existence of provisions allowing the government to consider a company's employment history in matters such as awarding government contracts or issuing licenses or permits. She also noted that some states and localities have established protections for particular industries such as the "gig economy" or temporary

workers. Laws have been enacted requiring panic buttons for hotel workers who are in danger, she said, and establishing rights for domestic workers.

[8:45:01 AM](#)

MS. GERSTEIN continued the discussion of new laws, explaining that non-compete agreements require workers to give up the right to work for a competitor, and used to be for only high-level employees such as those with access to trade secrets or confidential information. Increasingly, she said, the agreements are used indiscriminately, and many low-wage workers are now subject to non-compete agreements; as such, many states have passed laws curbing such contracts. She said that non-compete agreements have been shown to reduce job mobility, suppress wages, and reduce entrepreneurialism, meaning that they're not good for the economy. Laws regarding protections specifically due to COVID-19, she said, have also been established.

MS. GERSTEIN presented slide 8, "New methods of enforcement," which read as follows [original punctuation provided]:

- Strategic enforcement
- Community partnerships
- Criminal prosecution
- Government contracting consequences
- Licensing/permitting consequences
- Use of media to drive compliance

MS. GERSTEIN explained that the strategic enforcement model focuses on driving employer compliance with the laws to deter violations, instead of relying on complaint and investigation mechanisms. She said that it's a proactive approach that focuses on problematic industries and works closely with the community in order to have the greatest impact. Using media to drive compliance has been particularly effective, she said, commenting that a Duke University professor found a significant deterring impact on employers that had violations outlined in press releases.

[8:50:04 AM](#)

MS. GERSTEIN presented slide 9, "Why do we still need state & local action now?", which read as follows [original punctuation provided]:

- Laboratories of experimentation
- Ability to respond to local conditions
- Forced arbitration, so need more public agencies
- In some places, more favorable state judiciary

MS. GERSTEIN said that laws established at the state and local level, once piloted, can be scaled up to the federal level; paid sick leave was originally passed in San Francisco, then a few other cities, before being passed statewide and now being discussed at the federal level. She then presented slide 10, continuing the list from slide 9, which read as follows [original punctuation provided]:

- Scale of the crisis; need for all hands on deck
- Value of multiple levels of government protecting working people

[8:53:44 AM](#)

REPRESENTATIVE MCCARTY asked for more information on non-compete agreements as they pertain to employees gaining access to confidential information and using it to open their own businesses.

MS. GERSTEIN responded that various laws have been passed that are used to address such a situation; non-solicitation or confidentiality agreements can be used to protect proprietary information without preventing someone from having a livelihood in their field of experience.

[8:56:18 AM](#)

CO-CHAIR FIELDS commented on the issue of non-compete clauses being used against employees of Jimmy John's sandwich shop. He pointed out that non-compete agreements were originally used in highly technical jobs but are now being against on low-wage workers.

MS. GERSTEIN said that the "Jimmy John's case" was one she worked on in the New York Attorney General's Office. She confirmed that non-compete agreements were originally used for very high-level executives and were individually negotiated upon hire; they're now being used much more broadly and are not negotiated. She said that it's become common for companies to require non-compete agreements from everyone from executives to janitors, pointing out cases involving jobs ranging from check-cashing clerks to phlebotomists. She said, "You can see how the

wage suppression would follow," pointing out that if the ability to get another job is taken away, then the ability to negotiate for a higher wage is taken away. She said that recently-passed legislation in Illinois prohibited non-compete agreements only for very low-wage workers.

9:00:13 AM

REPRESENTATIVE MCCARTY shared an anecdote in which a person in his profession was prohibited by a non-compete agreement from competing within the state of Alaska, which he characterized as "extreme." He again expressed concern at the possibility of employees "stealing the manual" and opening up their own businesses.

MS. GERSETIN shared the existence of the Uniform Laws Commission, a nonpartisan body of lawyers that drafts model laws for adoption, and is currently working on a model law for non-compete reform. She then reiterated her earlier explanation that there are ways in which a business may protect itself that don't prevent a former employee from earning a living.

9:03:59 AM

REPRESENTATIVE MCCARTY shared some of his suppositions about the minimum wage increase in Seattle. He then discussed housing costs in proportion to wages.

MS. GERSTEIN responded that housing is a critical need, and the cost of housing needs to be addressed. She stated that economists agree that minimum wage increases do not, in practice, decrease employment. She pointed out that jurisdictions that adopted a \$15 minimum wage implemented the increase incrementally, giving employers ample opportunity to adjust operations. She pointed out that workers who are in "tipped" positions can be paid \$2.13 per hour, and that several states have eliminated that provision; many restaurants are paying workers a living wage instead of allowing tips.

9:09:08 AM

CO-CHAIR FIELDS shared that the U.S. Secretary of Labor expressing that he was in favor of criminal prosecution of wage theft, because overall compliance with the law would increase after a couple of convictions. He asked whether Ms. Gerstein believes the data will eventually reflect that type of efficiency. He then asked whether states must change their

statutes to require strategic enforcement, or whether enforcement can be done at the administrative level.

MS. GERSTEIN responded that she doesn't know of any academic research assessing the impact of criminal versus civil enforcement, but that her anecdotal experience is that criminal enforcement has a strong deterrent impact. She expressed that media coverage of the prosecutions would "move the dial." In terms of strategic enforcement, she said, some state labor departments are set up in a way that requires strategic enforcement; New York has a task force to focus on proactive enforcement in very low-wage industries, as well as a division to handle complaints. She said that enforcement has often been based on the administration in place.

[9:13:26 AM](#)

REPRESENTATIVE MCCARTY again addressed his concerns about employees stealing proprietary information and using it to start businesses, and he asked Ms. Gerstein her thoughts on the matter.

MS. GERSTEIN replied, "That's why we have trade secret law, and that's why ... an employment contract, even if it doesn't have a non-compete, it can have confidentiality requirements, and the employer can go to court and sue if the person leaves the job and violates the confidentiality requirements." She reiterated her earlier statement that there are ways of addressing such issues that don't block a person from being able to get a job.
#

[9:16:13 AM](#)

The committee took an at-ease from 9:16 a.m. to 9:17 a.m.

^#hb91

HB 91-CONTROLLED SUB. DATA: EXEMPT VETERINARIAN

[9:17:16 AM](#)

CO-CHAIR FIELDS announced that the next order of business would be HOUSE BILL NO. 91, "An Act exempting veterinarians from the requirements of the controlled substance prescription database."

[9:17:50 AM](#)

REPRESENTATIVE ADAM WOOL, Alaska State Legislature, introduced HB 91 as prime sponsor. He explained that the Prescription Drug Monitoring Program (PDMP) is a nationwide program that mandates health care professions enter patient information into a database to track possible opioid abuse. Currently, he said, veterinarians are required to participate in PDMP; the proposed legislation would exempt veterinarians from required participation. When a veterinarian or vet tech enters a pet owner's information into the PDMP database, he said, he or she then has complete information on what medication the pet owner is taking. He said that the interface isn't set up for veterinarians or pets, so violations are more likely, which trigger investigations that cost money and time.

[9:22:59 AM](#)

ASHLEY CARRICK, Staff, Representative Adam Wool, Alaska State Legislature, on behalf of Representative Wool, prime sponsor, presented a PowerPoint titled, "HB 91: VETERINARIAN EXEMPTION FROM PDMP [hardcopy included in the committee packet]. She began the presentation with slide 2, "BACKGROUND: THE PDMP PROGRAM," which read as follows [original punctuation provided]:

Y PDMP: Prescription Drug Monitoring Program

Y Alaska's PDMP was established by SB 196 in 2008

Y In reaction to growing opioid epidemic, the PDMP was amended in 2017 via HB 159 from Governor Walker to include veterinary participation requirements

Y PDMP reporting is required for all actively licensed practitioners who hold a Federal Drug Enforcement Agency registration number and who dispense federally scheduled II-IV controlled substances in the state

MS. CARRICK presented slide 3, "BACKGROUND: PREVIOUS VERSION OF HB 91," which read as follows [original punctuation provided]:

- HB 184 was introduced by Rep. Tammie Wilson in the previous Legislature; later carried by Rep. Dave Talerico
- Had a hearing in HSS prior to adjournment of the 2020 session due to COVID

- A petition of support for veterinary PDMP exemptions gained over 1,000 Alaskan signatures of support
- AK Veterinary Medical Association (AKVMA), the Board of Veterinary Examiners (BOVE), and veterinary practices across the state remain in strong support

MS. CARRICK presented slide 4, "VET SHOPPING: IS THIS A PROBLEM?", which read as follows [original punctuation provided]:

- Vet shopping is the practice of soliciting veterinarians for prescription medications
- A 2014 review of Prescription Monitoring Drug Programs found less than 10 veterinary shoppers nationwide
- There have been no identified cases of veterinary shopping in Alaska
- There is a natural barrier to vet shopping since costs for veterinary care are paid up front by the pet owner

[9:27:15 AM](#)

MS. CARRICK presented slide 5, "STATE BY STATE COMPARISON ON PDMP REPORTING," which showed a map of the United States with 34 states highlighted in red, and which read as follows [original punctuation provided]:

- 34 states (shown in red) do not require a dispensing veterinary practice to report to the state PDMP
- West Virginia just passed legislation
- Currently, Illinois is considering legislation to exempt vets

MS. CARRICK presented slide 6, "GOALS OF HB 91," which read as follows [original punctuation provided]:

ALLOWS THE PDMP TO WORK AS DESIGNED TO COMBAT HUMAN OPIOID ABUSE

REFLECTS CURRENT OPIOID PRESCRIPTION REALTIES FOR
VETERINARY PRACTICE

PROTECTS THE PRIVACY OF HUMAN PATIENTS AND REDUCES
COSTS OF VETERINARY CARE

MS. CARRICK presented slide 7, "GOAL #1: ALLOW THE PDMP TO WORK
AS DESIGNED," which read as follows [original punctuation
provided]:

The PDMP is designed to combat human opioid abuse,
HOWEVER:

Y Unlike humans, animals do not have a unique
identifier or human owner

Y Unlike humans, animals can change names, birthdays,
or ownership

Y There is no Medicaid for animals and owners pay up
front for each visit

Y Veterinary data in the PDMP is not easily
interpreted and can complicate effective use of the
PDMP for all participants

Y Veterinarians are not trained in human medication-
including timing and dosage amounts

Y Animals cannot falsely represent pain or injuries
that may require opioids

[9:29:56 AM](#)

CO-CHAIR SPOHNHOLZ asked for clarification on what types of
drugs are required to be reported in PDMP.

[9:30:59 AM](#)

REPRESENTATIVE WOOL responded that PDMP allows a veterinarian of
staff access to the data regarding controlled substances that
are prescribed. He said that Xanax, Valium, behavioral health
drugs, and certain drugs to treat addicts are all controlled
substances. He said that commonly-prescribed drugs would be in
the database and accessible by a veterinarian.

REPRESENTATIVE SPOHNHOLZ suggested that it's important to clarify that medications such as insulin or heart medication would not be in the PDMP database.

REPRESENTATIVE WOOL agreed that only certain controlled substances are included in the database.

[9:32:59 AM](#)

MS. CARRICK resumed the PowerPoint presentation on HB 91 with slide 8, "GOAL #2: REFLECT CURRENT OPIOID PRESCRIPTION REALITIES," which read as follows [original punctuation provided]:

Veterinarians can prescribe opioids to their animal patients, HOWEVER:

Y Opioid medications prescribed by veterinarians represented only 0.34% of total opioid prescriptions in 2017

Y The drugs contributing to the opioid crisis are not the drugs used most often in veterinary medicine

Y Animal doses cannot be standardized in Morphine Milligram Equivalents (MME's) the same as human medications

[9:34:08 AM](#)

REPRESENTATIVE SNYDER discussed the statistic of opioid medications representing 0.34 percent of total opioid prescriptions in 2017, and she recalled testimony that the requirement to enter opioid medications into the database was encouraging veterinarians to prescribe fewer opioids. She asked whether the low percentage could be the result of the requirement.

REPRESENTATIVE WOOL responded that he doesn't know the trend, but 34 states don't require PDMP database records of opioid prescriptions by veterinarians.

[9:35:48 AM](#)

MS. CARRICK resumed the PowerPoint with slide 9, "GOAL #3: PROTECT PRIVACY AND REDUCE COSTS OF CARE," which read as follows [original punctuation provided]:

There are human privacy concerns related to participation in the PDMP program, SUCH AS:

Y In order to prescribe or dispense a controlled substance to an animal, an owner's medical information must be queried

Y Most owners are unaware that their own prescription information is available to their veterinarian

Y Some of the drugs prescribed to human patients that can be viewed by veterinarians include:

Y Hormones

Y Behavioral health medications

Y Steroids

Y Substance abuse treatment medications

MS. CARRICK presented slide 11, "ALTERNATIVES TO MANDATORY VETERINARY PARTICIPATION IN PDMP," which read as follows [original punctuation provided]:

Y Continued education for veterinarians on avoiding opioid prescription misuse

Y Research on the prevalence of veterinary shopping and its relation to the opioid epidemic

Y Appropriate outreach to DEA officials if there is suspected diversion of controlled substances, which is currently required in Federal law

[9:38:31 AM](#)

RACHEL BERNGARTT, DVM, Chair, Board of Veterinary Examiners, testified in support of HB 91. She shared that she has been a veterinarian in Alaska for 19 years and is a member of the Alaska Bar Association. She said that the statistic of 0.34 percent referred to earlier was from a 2017 study; however, the data is consistent with subsequent years. Over \$40,000 was spent on investigations in the first half of fiscal year 2021, she said, and expenditures are expected to double by the end of the year compared to 2020. There were 56 open investigations related to use of PDMP, she said, which appear to be related to using a "non-usable" system instead of to illicit prescribing. Open investigations are usually in the single digits, and

investigations are paid for by the board and funded solely by licensees; Alaska has one of the most expensive veterinary licenses in the country, she said, and the cost is expected to increase again due to the investigation costs. Increased licensing fees, she said, would exacerbate Alaska's veterinary shortage.

DR. BERNGARTT explained that because veterinary records aren't standardized across the profession, there's no program that interfaces with them. She addressed the opposition to HB 91 by the American College of Emergency Physicians, which stated that the risks for misuse would increase if animal clinics were granted an exemption; there is no support for such a statement, she said. So-called "doctor shopping" in veterinary medicine is virtually nonexistent, she said, due to veterinary medicine commonly requiring up-front payments. She expressed agreement that addressing the opioid crisis is important, but she said that requiring veterinarians to use the PDMP database is not the way to address it.

[9:44:03 AM](#)

MARY ANN HOLLICK, DVM, Alaska Veterinary Medical Association, testified in support of HB 91. She stressed that drugs are locked up until needed for surgery, that she has not experienced a human client exhibiting drug-seeking behavior in her 33 years as a veterinarian, and that the PDMP database has human health care implications, not veterinary ones. She said that the pain reliever most used by veterinarians is non-steroidal anti-inflammatory medication, similar to Advil or Tylenol. There is no way to track the personal history for an animal, she said, and her human clients are often upset when asked for a driver's license or birthday. Veterinarians and staff are educated on opioid abuse, she said, and veterinarian participation in PDMP does nothing to reduce the risk for opioid abuse.

[9:48:26 AM](#)

MCKAYLA DICK, DVM, President, Alaska Veterinary Medical Association, testified in support of HB 91. She said that as health care providers, AKVMA recognizes its responsibility in contributing to the opioid crisis; however, after years of participating in PDMP, it's clear that the program is unfit for veterinary medicine. Designed as a tool to identify duplicate prescriptions and trends in human medicine, PDMP is inappropriate for veterinarian use because animals can't fake illness. In 2014, a nationwide study by Lincoln Memorial

University showed less than 10 cases of drug-shopping in veterinary medicine within PDMP, she said, and for a pet to be prescribed a controlled medication, a client must pay up-front for all services, which can begin at \$600. Humans have identifiers such as birthdays, driver's license numbers, and social security numbers, she said, while animals don't, so querying the database for pet patients isn't possible. Veterinarians who have used the database have found that it doesn't contain prescription history, even when querying the human client whose pet has previously been prescribed medications; the data is lost or not being used. She said PDMP is a "true invasion of privacy" because it allows veterinarians, who are untrained in human medicine, to evaluate the medications of their clients. She said veterinarians are not choosing to practice in Alaska due in part to high fees, which are exacerbated by investigations stemming from the use of PDMP. Allowing PDMP to be used for its intended purpose, she said, would eliminate an unnecessary burden on veterinarians.

9:54:05 AM

PAM VENTGEN, Executive Director, Alaska State Medical Association, testified in opposition to HB 91. She said that opioid abuse is a challenge in Alaska and people with addictions will go to "great lengths" to feed the addiction. She offered anecdotes of "bad actors" in human medicine who were caught illegally overprescribing controlled substances, and she shared a story of speaking to people who said they have knowledge of addicts abusing veterinarian-prescribed medication, pointing out that one person who was in addiction treatment said that there was a veterinarian also in treatment. She said only licensed personnel are able to access the database. She said, "If the PDMP is the problem, we should fix the PDMP, not exempt prescribers and dispensers."

9:58:18 AM

REPRESENTATIVE SNYDER asked whether there have been efforts to modify PDMP or reporting practices to better serve the needs of veterinarians.

REPRESENTATIVE WOOL responded that PDMP is a nationwide program, and that he questions the veracity of accusations regarding problems relating to veterinarians, since 34 states have either never required veterinarians to use it or have exempted them from the requirement.

REPRESENTATIVE SNYDER clarified her question.

REPRESENTATIVE WOOL deferred to one of the invited testifiers.

[9:59:59 AM](#)

DR. BERNGARTT offered that the issue has been discussed within the regulatory policy task force of the American Association of Veterinary State Boards. She said Wisconsin has received a grant to study options for building a different system, but other states are experiencing problems similar to Alaska's.

[10:00:57 AM](#)

REPRESENTATIVE KAUFMAN said his elderly dog had many prescriptions, and that he didn't like his own name being associated with his pet's medication. He referred to the statistic of 0.34 percent of all opioids being prescribed by veterinarians, and he asked whether there is any evidence to support the anecdotes of abuse of veterinary medications.

DR. BERNGARTT said that the issue of a veterinarian in substance abuse recovery is a different problem than those handled through PDMP. "To say that veterinarians are completely immune to any sort of substance abuse," she said, "that's a different topic than what the PDMP does." She said that she assumes the veterinarian's drug use was discovered through means other than PDMP. She pointed out that the "bad actors" in medicine were caught by the Drug Enforcement Agency, not PDMP. She said there are many ways in which veterinarians can substantially contribute to fighting the opioid crisis.

[HB 91 was held over.]

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[10:04:07 AM](#)

ADJOURNMENT

The House Labor and Commerce Standing Committee recessed at 10:04 p.m. to the call of the chair.

[12:30:47 PM](#)

CO-CHAIR FIELDS called the House Labor and Commerce Standing Committee back to order at 12:30 p.m. Present at the call back to order were Representatives Fields, Spohnholz, Schrage,

McCarty, and Snyder. Representative Kaufman arrived as the meeting was in progress.

[Due to technical difficulties, the first minute of the call back to order was not captured in audio but was captured in the secretary's log notes.]

^#sb12

SB 12-MILITARY SPOUSE COURTESY LICENSE

[12:30:49 PM](#)

CO-CHAIR FIELDS announced that the final order of business would be SENATE BILL NO. 12, "An Act relating to temporary courtesy licenses for military spouses; and relating to the Department of Commerce, Community, and Economic Development."

[12:30:50 PM](#)

JOE HAYES, Staff, Senator Scott Kawasaki, Alaska State Legislature, presented SB 12 on behalf of Senator Kawasaki, prime sponsor. He read the sponsor statement, which read as follows [original punctuation provided]:

In 2011, House Bill 28 was passed into law to provide expedited temporary courtesy licenses to eligible individuals transferred to Alaska with their active duty service member spouse, so they can practice their trade without experiencing extensive wait times for licensure approval while they complete state requirements. For a military spouse, expedited temporary courtesy licenses are the fastest method of obtaining licensure so they can get to work quickly after relocating to Alaska.

Many states have passed similar legislation into law. However, states such as Washington and Connecticut also included a reporting mechanism so the Legislature and Joint Armed Services Committee equivalent in that state could track the executive branch's progress of implementation. HB 28 did not include a reporting requirement when it was passed.

Senate Bill 12 would require the Department of Commerce, Community and Economic Development to prepare an annual report of courtesy licenses issued the previous fiscal year. This simple reporting

mechanism will help facilitate communication between occupational boards, the state agency, the U.S. Department of Defense who assists in relocating service members and families, as well as Alaska legislators with service members in their districts. The bill will also aid in making occupational board staff and legislators more aware of what opportunities are available for helping military spouses enter the Alaska the workforce.

Other states have implemented a similar expedited licensing program to allow military spouses to transfer their professional credentials quickly and contribute to the local economies. While Alaska's program is a model for other states, its implementation has stalled with few eligible professionals taking advantage of the program and spouses reporting delays despite the program being in effect for eight years. Senate Bill 12 would help identify inefficiencies in the program before they cause delays in productivity and ensure the program is working as intended.

Introduced in 2018 as House Bill 262, the bill passed the House unanimously and gained bipartisan support in the Senate before it failed to reach the floor for a vote. The concept of this bill is listed as a priority for the U.S. Department of Defense by the state liaison serving Alaska.

The passage of SB 12 would improve communication between state and federal government agencies and active duty families. By improving efficiency and awareness about what opportunities are available, the bill will help welcome military families to Alaska. I respectfully urge your support of SB 12, a corrective bill that will help ease the transition of military families and get more licensed professionals to work in our communities near military installations.

[12:33:45 PM](#)

REPRESENTATIVE MCCARTY asked about existing reciprocity.

MR. HAYES responded that HB 28 had passed during the Twenty-Seventh Alaska State Legislature, but the state had not been monitoring its effects. This proposed legislation would require

an annual report regarding how many military spouses were able to use their licenses.

REPRESENTATIVE MCCARTY asked when HB 28 passed.

MR. HAYES responded that HB 28 passed in 2011.

REPRESENTATIVE MCCARTY asked whether the state had been denying licensing to otherwise eligible individuals.

MR. HAYES said that, while no licenses had been denied, military spouses were not aware of the program.

[12:37:21 PM](#)

TAMMIE PERREAULT, Northwest Regional Liaison, Defense-State Liaison Office, U.S. Department of Defense (DoD), testified in support of SB 12 on behalf of the Deputy Assistant Secretary of Defense for Military Community & Family Policy. She said that the proposed legislation would support significant DoD priorities for occupational licensing boards to ensure licenses are appropriately processed for military spouses. She expressed that the reporting requirements under SB 12 would help DoD assess the actions of licensing boards, as well as encourage any appropriate implementation of changes to law and regulatory policy. She said that the Defense-State Liaison Office, in a 2017 study done by the University of Minnesota, found specific limitations to Alaska's current expedited licensure process such as board staff not being aware of legislation that supports licensure portability, lack of unique processes for military spouses, and limited available information. Since 2017, she said, the Division of Corporations, Business, and Professional Licensing in the Department of Commerce, Community & Economic Development (DCCED) has worked hard to address the shortcomings, including significantly reducing the processing time for military spouses. She expressed that without the appropriate supporting legislation, continuing the effort to improve Alaska's process for military spouse licensure could be hindered; the concern has been communicated to the governor by the Under Secretary of Defense for Personnel and Readiness. She said that half of all military personnel are married, and military spouse employment and its associated personal and financial well-being is a vital component in servicemember retention, with 88 percent of military spouses reporting that they either want or need to work. Military spouses are highly influential regarding a servicemember's decision to remain in the service, she said, and over 28 percent of servicemembers

reported that their decision to leave the military would "largely or moderately" be affected by their spouse's career prospects. Ms. Perrault noted that consideration of a spouse's licensure is required when making "basing decisions," and she stressed that military families often require two incomes.

[12:39:47 PM](#)

REPRESENTATIVE SNYDER asked whether temporary licenses for active duty military members, rather than only for spouses, could be considered.

MR. HAYES replied that he does not believe Senator Kawasaki would be opposed to such consideration, but he doesn't know how that would work.

[12:41:14 PM](#)

REPRESENTATIVE MCCARTY asked about military spouses engaged in internships or apprenticeships.

MR. HAYES responded that he doesn't believe the proposed legislation would cover such individuals.

[12:43:03 PM](#)

SARA CHAMBERS, Director, Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community, and Economic Development, said that the proposed legislation doesn't change anything in the licensing process, it would simply require the annual report.

[12:44:02 PM](#)

CO-CHAIR FIELDS asked Representative McCarty whether the action on the House floor addressed the issues he had sought to address with a possible amendment.

REPRESENTATIVE MCCARTY replied yes.

[12:44:20 PM](#)

CO-CHAIR FIELDS opened public testimony on SB 12. After ascertaining that no one wished to testify, he closed public testimony.

[12:44:41 PM](#)

CO-CHAIR SPOHNHOLZ moved to report SB 12 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, SB 12 was reported out of the House Labor and Commerce Standing Committee.

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[12:45:22 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 12:45 p.m.